



# ***CITY COUNCIL***

## ***Administrative Oversight & Land Use Committee***

**Monday, November 17, 2008**

**5:00 pm**

**City Council Office**

### **ADMINISTRATIVE OVERSIGHT**

- I. Interviews 5:00 pm**
  - 5:00 – Nilda Nieves – reappointment, Police Civil Service Board**
  - 5:15 – Barry Pease – appointment, Animal Control Board**
  - 5:30 – Carlos Torres – appointment, Fire Diversity Board**
- II. Appointment Recommendations**
- III. Review Pending Applications Memo/BAC Openings**
- IV. Ad hoc Committee - City-wide Diversity Board 5:45 pm**  
**Appointments**

### **LAND USE**

- I. Review Standard Operating Procedure for 6:00 pm**  
**Forced Entry Inspections**
- II. Handicapped Parking 6:30 pm**

## **Review Reports**

Office of Neighborhood Development Report

Human Resources Report

Call Center Report

## **Upcoming Topics**

Zoning Ordinance Amendment

SALDO

Review of enabling legislation for 2 Boards, Authorities & Commissions per year

*It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information. No action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to above in this notice.*

<b>DIVERSITY BOARD</b>
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**Monthly**

Formed July 2007

**Term:** three year staggered terms

Council	9 Members		3 Year Term
	Date <u>Appointed</u>	Date <u>Reappointed</u>	Term <u>Expiration</u>
Council Rep			
AFSCME Rep			
FOP Rep			
IAFF Rep			
City Management Rep			
HR Dept Rep			
Citizen			
Citizen			
Citizen			
Citizen			

# Memorandum

**To: Members of the Administrative Oversight Committee**  
**From: Tonya A. Butler, Esquire**  
**Date: November 13, 2008**  
**In re: Handicap Parking Ordinance**

I am meeting with you all on Monday, November 17, 2008, to discuss the Handicap Parking Resolution. Our current law is in violation of the Pennsylvania Human Relations Act. Please note the following excerpts from the PHRA and its regulations. Such information has been gathered by the Pennsylvania Human Relations Commission. I have also included as an attachment what I think is a beginning to a conversation on a new Resolution.

Failing to provide a reasonable accommodation for a disability violates the PHRA's housing provisions if the requested accommodation is necessary to afford an equal opportunity to use and enjoy a housing accommodation. A person who is unable to exit or gain access to his or her home does not have an equal opportunity to use and enjoy a housing accommodation.

Specifically, the PHRA's Section 5(h)(3.2) makes it an unlawful discriminatory practice for any person to "refuse to make reasonable accommodations in rules, policies, practices or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a housing accommodation." 43 P.S. § 955(h)(3.2). **Section 4(a) defines "person" to include "the Commonwealth of Pennsylvania, and all political subdivisions, authorities, boards, and commissions thereof." 43 P.S. § 954(a).**

Section 4(i) defines "housing accommodations" to include any building, structure, mobile home site or facility, or portion thereof, which is used or occupied or is intended arranged or designed to be used or occupied as the home residence or sleeping place of one or more individuals, groups or families whether or not living independently of each other. . . . The term. . . shall not include any personal residence offered for rent by the owner or lessee thereof or by his or her broker

salesperson, agent or employer." 43 P.S. § 954(i). The definition of "housing accommodations" is key. **The only time a personal residence is excluded from the PHRA's coverage is when it is offered for rent.**

The Commission's housing regulations provide further guidance. According to 16 Pa. Code §45.9. Governmental units:

(a) A governmental unit or political subdivision may not take an action which would have the effect of denying equal access to housing accommodations or commercial property within the subdivision, to any person on the basis of a protected class. **It is not a defense to the action that the governmental act in question was the result, in whole or in part, of public opposition to the efforts of the member of the protected class to obtain housing accommodations or commercial property within the political subdivision.**

(b) Activity by a political subdivision or governmental unit which is prohibited when based upon a person or person's protected class includes, but is not limited to:

- (1) An action, including the furnishing of services, which directly or indirectly affects housing accommodations or commercial property.

I look forward to speaking with you all on Monday.

RESOLUTION NO. \_\_\_\_\_

**AMENDING RESOLUTION #134-2002:**

WHEREAS, by Resolution No. 473-86, the Council of the City of Reading enacted a handicapped parking policy procedure; and

~~WHEREAS, it has become necessary to modify that parking policy procedure as a result of the overwhelming requests received for handicapped parking spaces; and~~

~~WHEREAS, there are currently issued in excess of five hundred (500) handicapped parking spaces; and~~

~~WHEREAS, the handicapped parking space designation may be established by the City of Reading; and~~

~~WHEREAS, the use of such designated handicapped parking space is not permitted to be exclusive to the applicant; and~~

~~WHEREAS, there is a need to monitor the applications for and continued use of handicapped parking spaces; and~~

~~WHEREAS, it has been determined that the criteria for granting requests for handicapped parking spaces should be made more stringent.~~

WHEREAS, the population of the City of Reading consists of citizens with numerous handicaps or disabilities, some of whom by reason of their handicap or disability, require reasonable accommodations in order to have the enjoyment of equality of opportunity relating to their public accommodations; and

WHEREAS, discrimination because of a person's handicap or disability is contrary to the laws and policies of the City; and

WHEREAS, the unavailability of residential handicapped parking spaces cause neighborhood tensions, conflicts and similar evils which result in injury to the public safety, health and welfare of the City; and

WHEREAS, the use of such designated handicapped parking space is not permitted to be exclusive to the applicant; and

WHEREAS, there is a need to monitor the applications for and continued use of handicapped parking spaces; and

WHEREAS, the handicapped parking space designation may be established by the City of Reading.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF READING HEREBY RESOLVES AS FOLLOWS:

SECTION 1. Any resident of the City of Reading, after acquiring a handicapped or disabled veterans license plate or placard from the State, may make application to the City for a handicapped parking space. All applications for original or renewal status will be reviewed by the City Health Officer, who will be the individual responsible for making the final determination on whether or not an individual claiming handicapped status, original or renewal, should be granted a handicapped parking space.

~~SECTION 2. In making the final determination, the City Health Officer shall be limited to granting no more than two (2) handicapped parking spaces per block where there is parking permitted on both sides of the street, and one (1) handicapped parking space per block where parking is permitted on only one (1) side of the street. Any such handicapped parking space permits having previously been granted prior to the effective date of this resolution where there is an excess of two (2) per block where applicable, or one (1) per block where applicable shall be permitted to remain in effect. In the event handicapped parking permits exceed the two (2) per block or the one (1) per block limit set forth above, the City Health Officer shall refrain from granting handicapped parking spaces for such block or blocks until such time as handicapped parking spaces as a result of failure to renew or cancellations fall below the per block limit set forth above.~~

~~SECTION 3. In making the final determination for renewal of handicapped parking spaces, the City Health Officer shall apply the criteria existing prior to date of passage of this resolution for the renewal of all parking spaces currently granted. Once a permit is not renewed for any reason, any new application by the same applicant for such parking permit shall be considered a new application and shall be governed by the criteria set forth in Section 4. of this resolution.~~

~~SECTION 4. In making such final determination, the applicant or someone residing in the applicant's residence shall meet the following criteria:~~

- ~~a) There is legal parking in the street in front of the applicant's residence.~~
- ~~b) No on-site off street parking is available.~~
- ~~c) The applicant:~~
  - ~~1. Must be wheelchair confined, and/or,~~
  - ~~2. Must have a cardiac condition to the extent that the person's functional limitations are classified in severity as Class IV according to the standards set by the American Heart Association, and/or,~~
  - ~~3. Caring for a minor child with a severe physical or mental disability, and/or,~~
  - ~~4. Is restricted by lung disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter or the arterial oxygen tension is less than 60 mm/hg on room air at rest.~~
- ~~d) There is at least twenty five (25') feet of parking space directly in front of the property. If not, signatures of the persons who own the adjacent properties must be obtained indicating that they have no objections to the installation of the Handicap zone.~~

~~SECTION 5. Approved applicants will be required to pay a fee of Seventy Dollars (\$70.00) for the materials and labor involved in the installation of the sign. Each permit granting a handicapped parking space may be renewed on an annual basis by filing an application for renewal together with a Five Dollar (\$5.00) renewal fee. Each application whether for an original permit for a handicapped parking space or for a renewal permit for a handicapped parking space shall contain the information required by the application form and the renewal application form. An incomplete application form or renewal application form shall be grounds for denial of the request for a permit. Applications for renewal permits shall be submitted to the City Health Officer not less than thirty (30) days or more than sixty (60) days prior to the expiration of each one (1) year term.~~

SECTION 2. Any City resident who has been issued by the Commonwealth of Pennsylvania a handicapped license plate or disabled veterans license plate or placard from the State or on whose behalf said license plate has been issued pursuant to Section 1338 of the Vehicle Code because of a handicap or disability, shall be eligible for the installation, in front of or as reasonably close thereto said person's residence, of a sign indicating that parking in such space is restricted to those vehicles bearing handicapped license plates.

SECTION 3. Application for a handicap parking space shall be made on a form provided by the City of Reading Engineering Office. The application information shall include the identity of the handicapped person and said person's place of residence. It shall be accompanied by documentation evidencing issuance of a handicapped plate by the Commonwealth of Pennsylvania as well as documentation from a licensed physician indicating the nature of the disability necessitating the handicap parking space.

SECTION 4. The term handicap or disability, with respect to a person, means a physical or mental impairment which substantially limits one or more of such person's major life activities.

SECTION 5. Each application whether for an original permit for a handicapped parking space or for a renewal permit for a handicapped parking space shall contain the information required by the application form and the renewal application form. An incomplete application form or renewal application form shall be grounds for denial of the request for a permit. Applications for renewal permits shall be submitted to the City Health Officer not less than thirty (30) days or more than sixty (60) days prior to the expiration of each one (1) year term.

SECTION 6. Penalties. An individual who submits a false application to the City of Reading shall, upon conviction thereof, be fined five hundred dollars (\$500.00) and costs, or imprisonment for not more than ninety (90) days, or both. Each false application submitted to the City of Reading shall constitute a separate offense. No prosecution of any violation of any of the provisions of this chapter may be instituted unless commenced by the filing of a complaint within six months after the date of such alleged violation.

SECTION 7. The criteria set forth for final determination as set forth in Section 3 ~~and the fee for the original application and any renewal application~~ may be changed from time to time by written directive of the executive branch provided that at least prior thirty (30)



days notice thereof shall be published in a newspaper of general circulation in and for Berks County.

SECTION 7. This resolution shall take effect immediately upon enactment.